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8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
Against:

Case No. 1D 2010 68385

12 **TINA MARIE HOWARD, P.T.**
13 **10361 S McClung Loop**
14 **Homosassa, FL 34448**

**FIRST AMENDED DEFAULT DECISION
AND ORDER**

15 **Physical Therapy License No. PT 28747**

[Gov. Code, §11520]

16
17 Respondent.

18 **FINDINGS OF FACT**

19 1. On or about May 31, 2011, Complainant Steven K. Hartzell, in his official capacity as
20 the Executive Officer of the Physical Therapy Board of California, filed First Amended
21 Accusation No. 1D 2010 68385 against Tina Marie Howard, P.T. (Respondent) before the
22 Physical Therapy Board of California.

23 2. On or about October 1, 2003, the Physical Therapy Board of California (California
24 Board) issued Physical Therapy License Number PT 28747 to Respondent. The expiration date
25 for said license was November 30, 2006.

26 3. On or about May 31, 2011, Christina Metzen, an employee of the California Board,
27 served by Certified Mail a copy of the First Amended Accusation No. 1D 2010 68385,
28 Supplemental Statement to Respondent, Notice of Defense, Request for Discovery, and

1 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
2 with the California Board, which was and is 10361 S McClung Loop, Homosassa, FL 34448. A
3 copy of the First Amended Accusation, the related documents, and Declaration of Service are
4 attached as Exhibit A, and are incorporated herein by reference.

5 4. Service of the First Amended Accusation was effective as a matter of law under the
6 provisions of Government Code section 11505, subdivision (c).

7 5. Government Code section 11506 states, in pertinent part:

8 "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a
9 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
10 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
11 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

12 Respondent failed to file a Notice of Defense within 15 days after service upon her of the
13 Accusation, and therefore waived her right to a hearing on the merits of First Amended
14 Accusation No. 1D 2010 68385. In fact, Respondent failed to file a Notice of Defense for this
15 matter at any time.

16 6. California Government Code section 11520 states, in pertinent part:

17 "(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
18 agency may take action based upon the respondent's express admissions or upon other evidence
19 and affidavits may be used as evidence without any notice to respondent."

20 7. On or about March 2, 2010, the final order by the State of Florida Board of Physical
21 Therapy Practice (Florida Board), which approved the settlement agreement entered into by
22 Respondent and the Florida Department of Health, and which placed Respondent's Florida
23 license on probation for two years, became effective. A certified copy of the Florida Board's
24 final order is attached as Exhibit B, and is incorporated herein by reference.

25 8. A Certification of Costs – Declaration of Jean-Pierre Francillette, is attached as
26 Exhibit C, and is incorporated herein by reference.

27 9. Pursuant to its authority under Government Code section 11520, the California Board
28 finds Respondent is in default. The California Board will take action without further hearing and,

1 based on Respondent's express admissions by way of default and the evidence before it,
2 contained in Exhibits A and B, finds that the allegations in the First Amended Accusation No. 1D
3 2010 68385 are true.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Tina Marie Howard, P.T., has
6 subjected her Physical Therapy License Number PT 28747 to discipline.

7 2. A copy of the First Amended Accusation and the related documents and Declaration
8 of Service are attached.

9 3. The agency has jurisdiction to adjudicate this case by default.

10 4. The Board is authorized to revoke Respondent's Physical Therapy License Number
11 PT 28747 based upon the following violations alleged in the First Amended Accusation:

12 a. Discipline Imposed by Another State – Unprofessional Conduct (Business and
13 Professions Code sections 141, 2305, and 2660(k)).

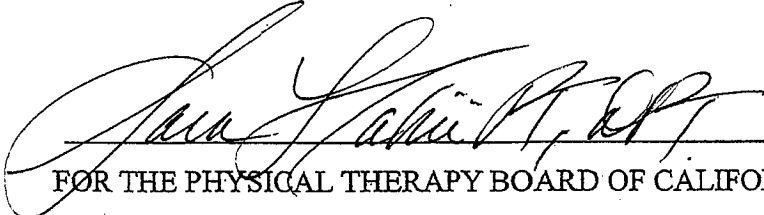
14 ORDER

15 IT IS SO ORDERED that Physical Therapy License Number PT 28747, heretofore issued
16 to Respondent Tina Marie Howard, P.T., is revoked.

17 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
18 written motion requesting that the Decision be vacated and stating the grounds relied on within
19 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
20 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

21 This Decision shall become effective on 12/12/2011.

22 It is so ORDERED 11/10/2011

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25 FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA

26 DEPARTMENT OF CONSUMER AFFAIRS

27
28 Sara Takii, PT, DPT, President

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Attachments:

Exhibit A: First Amended Accusation No.1D 2010 68385, Related Documents, and
Declaration of Service

Exhibit B: Certified Copy of Final Order by the State of Florida Board of Physical
Therapy Practice

Exhibit C: Certification of Costs - Declaration of Jean-Pierre Francillette

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Exhibit A

First Amended Accusation No. 1D 2010 68385,
Related Documents and Declaration of Service

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FILED
STATE OF CALIFORNIA
PHYSICAL THERAPY BOARD OF CALIFORNIA
SACRAMENTO, CA 5/31/2011
BY Metz ANALYST

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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

Case No. 1D 2010 68385

TINA MARIE HOWARD, P.T.
10361 S McClung Loop
Homosassa, FL 34448

FIRST AMENDED ACCUSATION

Physical Therapy License No. PT 28747

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California.

2. On or about October 1, 2003, the Physical Therapy Board of California issued Physical Therapy License Number PT 28747 to Tina Marie Howard, P.T. (hereinafter "Respondent"). Said certificate is delinquent with an expiration date of November 30, 2006.

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (hereinafter "Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

///

1 4. Section 141 of the Code states:

2 “(a) For any licensee holding a license issued by a Board under the jurisdiction of the
3 department, a disciplinary action taken by another state, by any agency of the federal government,
4 or by another country for any act substantially related to the practice regulated by the California
5 license, may be a ground for disciplinary action by the respective state licensing Board. A
6 certified copy of the record of the disciplinary action taken against the licensee by another state,
7 an agency of the federal government, or another country shall be conclusive evidence of the
8 events related therein.

9 (b) Nothing in this section shall preclude a Board from applying a specific statutory
10 provision in the licensing act administered by that Board that provides for discipline based upon a
11 disciplinary action taken against the licensee by another state, an agency of the federal
12 government, or another country.”

13 5. Section 2305 of the Code states:

14 “The revocation, suspension, or other discipline, restriction, or limitation imposed
15 by another state upon a license or certificate to practice medicine issued by that state, or the
16 revocation, suspension, or restriction of the authority to practice medicine by any agency of the
17 federal government, that would have been grounds for discipline in California of a licensee under
18 this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the
19 licensee in this state.”

20 6. Section 2660 of the Code states, in pertinent part, that the Board may, after the
21 conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not
22 more than 12 months, or revoke, or impose probationary conditions upon any license, certificate,
23 or approval issued under this chapter for unprofessional conduct that includes, but is not limited
24 to :

25 “(k) The commission of any fraudulent, dishonest,
26 or corrupt act which is substantially related to the
27 qualifications, functions or duties of a physical
28 therapist or physical therapy assistant.

 ”

1 7. Section 2661.5 of the Code states:

2 “(a) In any order issued in resolution of a disciplinary proceeding before the Board, the
3 Board may request the administrative law judge to direct any licensee found guilty of
4 unprofessional conduct to pay to the Board a sum not to exceed the actual and reasonable costs of
5 the investigation and prosecution of the case.

6 (b) The costs to be assessed shall be fixed by the administrative law judge and shall not in
7 any event be increased by the Board. When the Board does not adopt a proposed decision and
8 remands the case to an administrative law judge, the administrative law judge shall not increase
9 the amount of the assessed costs specified in the proposed decision.

10 (c) When the payment directed in an order for payment of costs is not made by the
11 licensee, the Board may enforce the order of payment by bringing an action in any appropriate
12 court. This right of enforcement shall be in addition to any other rights the Board may have as to
13 any licensee directed to pay costs.

14 (d) In any judicial action for the recovery of costs, proof of the Board's decision shall be
15 conclusive proof of the validity of the order of payment and the terms for payment.

16 (e)(1) Except as provided in paragraph (2), the Board shall not renew or reinstate the
17 license or approval of any person who has failed to pay all of the costs ordered under this section.

18 (2) Notwithstanding paragraph (1), the Board may, in its discretion, conditionally renew
19 or reinstate for a maximum of one year the license or approval of any person who demonstrates
20 financial hardship and who enters into a formal agreement with the Board to reimburse the Board
21 within that one year period for those unpaid costs.

22 (f) All costs recovered under this section shall be deposited in the Physical Therapy Fund
23 as a reimbursement in either the fiscal year in which the costs are actually recovered or the
24 previous fiscal year, as the Board may direct.”

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1 primary care physician. Further, during an interview, Patient RB denied receiving physical
2 therapy on October 16, 2008.

3 F. On or about October 21, 2008, Respondent admitted to her employer in writing that
4 she had documented in the patient charts that she had provided physical therapy to them
5 when in fact she had not. When confronted with documentation regarding the allegations
6 described above, Respondent admitted to her employer in-person that what she did was
7 wrong.

8 G. Respondent was charged with an Administrative Complaint filed by the State of
9 Florida, Department of Health (Case No. 2008-23431), filed on April 23, 2009, and
10 properly served on Respondent, with violations of Chapters 456 and 486, Florida Statutes.

11 H. Section 486.125(1)(i), Florida Statutes (2008), provides that making or filing a report
12 or record which the licensee knows to be false, constitutes grounds for discipline by the
13 Board of Physical Therapy; further, reports and records shall include only those which are
14 signed in the capacity as a physical therapist.

15 I. Section 468.125(1)(k), Florida Statutes (2008), provides that violating any provision
16 of Chapter 486 or Chapter 456, Florida Statutes, or any rules pursuant thereto, constitutes
17 grounds for disciplinary action by the Board of Physical therapy.

18 J. Section 456.072(1)(m), Florida Statutes (2008), provides that making deceptive,
19 untrue, or fraudulent representations in or related to the practice of a profession or
20 employing a trick or scheme in or related to the practice of a profession constitutes grounds
21 for discipline by the Board of Physical Therapy.

22 K. Florida Administrative Code Rule 64B17-6.001(2)(e), a rule promulgated pursuant to
23 Chapter 486 or Chapter 456, Florida Statutes, provides that Physical Therapists shall not
24 use or participate in the use of any form of communication containing false, fraudulent,
25 misleading, deceptive, unfair or sensational statement or claim, nor misrepresentation of
26 services or self, nor engage in other unprofessional conduct, including, but not limited to
27 inaccurately recorded, falsified, or altered patient records.

28 ///

1 L. The Administrative Complaint charges that Respondent violated these Florida
2 Statutes and Code Rule in one or more of the following ways:

- 3 a) By signing or creating records of patient LW as if Respondent had provided
4 physical therapy;
5 b) By signing or creating records for patient GM as if Respondent had provided
6 physical therapy;
7 c) By signing or creating records for patient HR as if Respondent had provided
8 physical therapy; or
9 d) By signing or creating records for patient RB as if Respondent had provided
10 physical therapy.

11 M. Respondent admitted to the factual allegations contained in the Administrative
12 Complaint (Case No: 2008-23431), which are outlined above, for the purposes of a
13 settlement that Respondent entered into with the Florida Department of Health on
14 November 19, 2009.

15 N. Respondent admits that the stipulated facts, if proven true, constitute a violation of
16 the law as alleged in the Administrative Complaint.

17 O. The settlement agreement was orally amended with the agreement of the parties, in
18 that the first sentence of paragraph 9 of the settlement agreement shall read: "Effective on
19 the date of the Final Order accepting settlement, Respondent's license shall be placed on
20 probation for a period of two (2) years." The Final Order accepting settlement took effect
21 upon being filed with the Clerk of the Florida Department of Health, which occurred on
22 March 2, 2010. The Final Order incorporating the settlement agreement shall serve as a
23 Letter of Concern from the Board of Physical Therapy Practice to Respondent.

24 9. The aforementioned conduct of Respondent constitutes cause for discipline under
25 section 141 and unprofessional conduct under sections 2305 and 2660(k).

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PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending California Physical Therapy License Number PT 28747, issued to Tina Howard, P.T.;

2. Ordering Tina Howard, P.T., to pay the Physical Therapy Board of California the reasonable costs of the investigation and prosecution of this case, pursuant to Business and Professions Code section 2661.5;

3. Taking such other and further action as deemed necessary and proper.

DATED: 05/31/2011


STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
State of California
Complainant

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10702498.doc

1 KAMALA D. HARRIS
Attorney General of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
3 JEAN-PIERRE FRANCILLETTE
Deputy Attorney General
4 State Bar No. 236017
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5330
Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
Against:

12 **TINA MARIE HOWARD, P.T.**
13 **10361 S McClung Loop**
14 **Homosassa, FL 34448**

15 **Physical Therapy License No. PT 28747**

16 Respondent.

Case No. 1D 2010 68385

SUPPLEMENTAL STATEMENT
TO RESPONDENT

[Gov. Code §§ 11505, 11506, 11507]

17 **TO RESPONDENT:**

18 Enclosed is a copy of the First Amended Accusation that has been filed with the Physical
19 Therapy Board of California of the Department of Consumer Affairs (Board), pursuant to section
20 11507 of the Government Code, and which is hereby served on you.

21 You previously filed a Notice of Defense with the Physical Therapy Board of California,
22 pursuant to sections 11505 and 11506 of the Business and Professions Code; thereby requesting
23 an administrative hearing to present your defense to the charges and allegations in the Accusation.
24 Section 11507 of the Government Code states that you are not entitled to file a further pleading in
25 response to the First Amended Accusation unless the agency in its discretion so orders.

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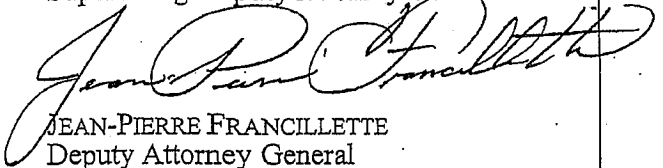
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1 All new charges contained in the First Amended Accusation are deemed controverted, and
2 any objections to the First Amended Accusation may be made orally and shall be noted in the
3 record.

4 Dated: May 16, 2011

KAMALA D. HARRIS
Attorney General of California

GAIL M. HEPPELL
Supervising Deputy Attorney General


JEAN-PIERRE FRANCILLETTE
Deputy Attorney General
Attorneys for Complainant

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13 10702671.doc

1 KAMALA D. HARRIS
Attorney General of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
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Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
Against:

Case No. 1D 2010 68385

12 **TINA MARIE HOWARD, P.T.**
13 **10361 S McClung Loop**
14 **Homosassa, FL 34448**

REQUEST FOR DISCOVERY

15 **Physical Therapy License No. PT 28747**

16 Respondent.

17 **TO RESPONDENT:**

18 Under section 11507.6 of the Government Code of the State of California, parties to an
19 administrative hearing, including the Complainant, are entitled to certain information concerning
20 the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code
21 concerning such rights is included among the papers served.

22 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE
23 HEREBY REQUESTED TO:

24 1. Provide the names and addresses of witnesses to the extent known to the Respondent,
25 including, but not limited to, those intended to be called to testify at the hearing, and

26 2. Provide an opportunity for the Complainant to inspect and make a copy of any of the
27 following in the possession or custody or under control of the Respondent:
28

1 a. A statement of a person, other than the Respondent, named in the initial
2 administrative pleading, or in any additional pleading, when it is claimed that the act or
3 omission of the Respondent as to this person is the basis for the administrative proceeding;

4 b. A statement pertaining to the subject matter of the proceeding made by
5 any party to another party or persons;

6 c. Statements of witnesses then proposed to be called by the Respondent and
7 of other persons having personal knowledge of the acts, omissions or events which are the
8 basis for the proceeding, not included in (a) or (b) above;

9 d. All writings, including but not limited to reports of mental, physical and
10 blood examinations and things which the Respondent now proposes to offer in evidence;

11 e. Any other writing or thing which is relevant and which would be
12 admissible in evidence, including but not limited to, any patient or hospital records
13 pertaining to the persons named in the pleading;

14 f. Investigative reports made by or on behalf of the Respondent pertaining
15 to the subject matter of the proceeding, to the extent that these reports (1) contain the names
16 and addresses of witnesses or of persons having personal knowledge of the acts, omissions
17 or events which are the basis for the proceeding, or (2) reflect matters perceived by the
18 investigator in the course of his or her investigation, or (3) contain or include by attachment
19 any statement or writing described in (a) to (e), inclusive, or summary thereof.

20 For the purpose of this Request for Discovery, "statements" include written statements by
21 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical
22 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or
23 summaries of these oral statements.

24 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery
25 should be deemed to authorize the inspection or copying of any writing or thing which is
26 privileged from disclosure by law or otherwise made confidential or protected as attorney's work
27 product.
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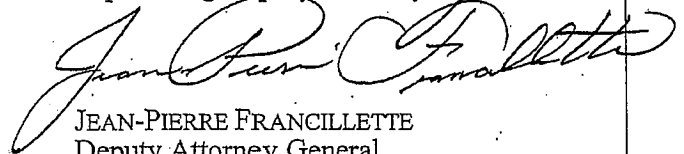
1 Your response to this Request for Discovery should be directed to the undersigned attorney
2 for the Complainant at the address on the first page of this Request for Discovery within 15 days
3 after service of the Amended Accusation.

4 Failure without substantial justification to comply with this Request for Discovery may
5 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the
6 Government Code.

7 Dated: May 16, 2011

KAMALA D. HARRIS
Attorney General of California

GAIL M. HEPPELL
Supervising Deputy Attorney General

10 
11 JEAN-PIERRE FRANCILLETTE
12 Deputy Attorney General
13 *Attorneys for Complainant*

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COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

PHYSICAL THERAPY BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended
Accusation Against:

) Case No. 1D 2010 68385
)
)

) Tina Marie Howard, PT
) PT 28747
)

) Respondent.
)
)

Notice of Defense

(Pursuant to sections
11505 and 11506,
Government Code)

I, the undersigned, the respondent named in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Request for Discovery, Statement to Respondent, Government Code Sections 11507.5, 11507.6, 11507.7, and two copies of a Notice of Defense.

I hereby request a hearing in said proceeding to permit me to present my defense to the charges contained in said First Amended Accusation.

DATED: _____

Respondent's Name: _____

Respondent's Signature: _____

Respondent's Mailing Address: _____

(Zip Code)

Telephone Number: (_____) _____

Check Appropriate Box

☐ Counsel, whose name, address and telephone number are shown in the upper left hand corner, represents me.

☐ Counsel does not now represent me. If and when counsel is retained, immediate notification of the attorney's name, address, and telephone number will be filed with you so that counsel will be on record to receive legal notices, pleading, and other papers.

PHYSICAL THERAPY BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended
Accusation Against:

) Case No. 1D 2010 68385
)
)

) Tina Marie Howard, PT
) PT 28747
)

Notice of Defense

(Pursuant to sections
11505 and 11506,
Government Code)

) Respondent.
)
)

I, the undersigned, the respondent named in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation, Request for Discovery, Statement to Respondent, Government Code Sections 11507.5, 11507.6, 11507.7, and two copies of a Notice of Defense.

I hereby request a hearing in said proceeding to permit me to present my defense to the charges contained in said First Amended Accusation.

DATED: _____

Respondent's Name: _____

Respondent's Signature: _____

Respondent's Mailing Address: _____

(Zip Code)

Telephone Number: (_____) _____

Check Appropriate Box

☐ Counsel, whose name, address and telephone number are shown in the upper left hand corner, represents me.

☐ Counsel does not now represent me. If and when counsel is retained, immediate notification of the attorney's name, address, and telephone number will be filed with you so that counsel will be on record to receive legal notices, pleading, and other papers.

DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the First Amended Accusation Against:

Tina Marie Howard, PT

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 2005 Evergreen Street, Suite 1350, Sacramento, California 95815. I served a true copy of the attached:

REQUEST FOR DISCOVERY, FIRST AMENDED ACCUSATION

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT No.

Tina Marie Howard, PT
10361 S McClung Loop
Homosassa FL 34448


7008 1300 0000 5694 8597

Jean-Pierre Francillette, DAG
Dept of Justice
1300 I Street, Suite 125
Sacramento CA 95814

7008 1300 0000 5694 8580

Said envelopes were then, on 05/31, 2011, and deposited in the United States mail in Sacramento, California, the county in which I am employed, as certified mail with the postage thereon fully prepaid, and return receipt requested.

Executed on 05/31, 2011, in Sacramento, California, in and to the effect of perjury under the laws of the State of California that


CHRISTINA METZEN, DECLARANT

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only - No Insurance Coverage Provided)	
For delivery information, visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
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7008 1300 0000 5695 0000 0001 8000	
Tina Marie Howard, PT 10361 S McClung Loop Homosassa FL 34448	

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Exhibit B

Certified Copy of Final Order by the State of Florida Board of Physical Therapy Practice

Charlie Crist
Governor



Ana M. Viamonte Ros, M.D., M.P.H.
State Surgeon General

RECEIVED

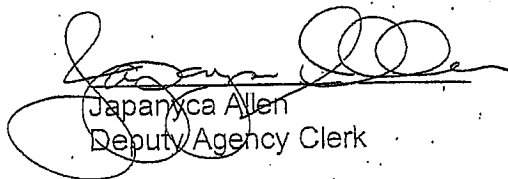
APR 30 2010

PHYSICAL THERAPY BOARD

CERTIFICATION

I, **Japanyca Allen**, Deputy Agency Clerk and Custodian of Records, HEREBY certify the following to be true and correct as on file with the Department of Health.

Attached is a true and correct copy of a Final Order Number **200823431** as maintained by the Department of Health. The attached is a regularly received and retained record of the **Board of Physical Therapy vs. Tina Marie Reade** and is received and retained in the ordinary course of business of the Department of Health.


Japanyca Allen
Deputy Agency Clerk

Charlie Crist
Governor



Ana M. Viamonte Ros, M.D., M.P.H.
State Surgeon General

Personally appeared before me, the undersigned authority, **Japanyca Allen**, Deputy Agency Clerk, Department of Health, Division of Medical Quality Assurance, who being sworn, says that this is a true and correct copy from the official file of the Department of Health.


Japanyca Allen
Deputy Agency Clerk

STATE OF FLORIDA
COUNTY OF LEON

Before me, personally appeared Japanyca Allen whose identity is personally known to me as Deputy Agency Clerk, and who, acknowledges that his/her signature appears above:

Sworn and subscribed to, before me, this **26th** day of **April 2010**.


Notary Public-State of Florida

ANGELA BARTON
NOTARY PUBLIC - STATE OF FLORIDA
COMMISSION # DD922154
EXPIRES 9/1/2013
BONDED THRU 1-888-NOTARY1

Type or Print Name

Division of Medical Quality Assurance, Central Records Unit
4052 Bald Cypress Way, Bin C 01 • Tallahassee, FL 32399-3251
Telephone (850) 245-4121
www.doh.state.fl.us

Final Order No. DOH-10-0568- S -MQA
FILED DATE - 3/2/2010
Department of Health
By: Angela B. Bost
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF PHYSICAL THERAPY PRACTICE

DEPARTMENT OF HEALTH,
Petitioner,

vs.

CASE NO.: 2008-23431

LICENSE NO.: PT 20021

TINA MARIE READE, PT,
Respondent.

FINAL ORDER APPROVING SETTLEMENT AGREEMENT

THIS CAUSE came before the Board of Physical Therapy Practice (hereinafter the "Board") Pursuant to Section 120.57(4), Florida Statutes, on February 5, 2010 in Orlando, Florida, for consideration of a Settlement Agreement (attached hereto as Exhibit A) entered into between the parties in the above-styled cause. Upon consideration of the Settlement Agreement, the documents submitted in support thereof, and being otherwise advised in the premises, it is hereby ordered and adjudged:

(1) The Settlement Agreement as submitted and orally amended is hereby approved, adopted and incorporated herein by reference. Accordingly, the parties shall adhere to and abide by all the terms of the Settlement Agreement. Paragraph 9 of the settlement agreement was orally amended with the agreement of the parties. The first sentence shall read:

Effective on the date of the Final Order accepting settlement, Respondent's license shall be placed on probation for a period of two (2) years.

(2) As authorized by the Settlement Agreement the Board finds that the costs of investigation and prosecution are \$3664.25.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 26 day of February, 2010.

BOARD OF PHYSICAL THERAPY PRACTICE

Allen Hall
ALLEN HALL,
Executive Director for
MADELEINE HELLMAN, PT, MHM, Ed.D, Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW UNLESS WAIVED

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL REVIEW, UNLESS WAIVED, PURSUANT TO SECTION 120.68, FLORIDA STATUTES. PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF THE NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEALS, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Tina Marie Reade, PT, at 1643 Astor Farms Place, Sanford, Florida 32771; by interoffice delivery to Joanna Daniels, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin #C-65, Tallahassee, FL 32399-3265, and by inter-office delivery to Allison Dudley, Assistant Attorney General, Department of Legal Affairs, The Capitol, PL-01, Tallahassee, FL 32399-1050 this 2 day of March, 2010.

Angela Barta
Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2008-23431

TINA MARIE READE, P.T.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Physical Therapy against Respondent, TINA MARIE READE, P.T., and in support thereof alleges:

1) Petitioner is the state department charged with regulating the practice of physical therapy pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 486, Florida Statutes.

2) At all times material to this Complaint, Respondent was a licensed physical therapist within the State of Florida, having been issued license number PT-20021.

3) Respondent's address of record is 1643 Astor Farms Place, Sanford, Florida 32771.

4) On or about September 14, 2008, Respondent postdated records of Patient LW. Specifically, Respondent completed documentation indicating that she had provided physical therapy to Patient LW from 14:30 to 15:00 (2:30 p.m. to 3:00 p.m.), yet the Respondent recorded at approximately 13:44 (1:44 p.m.) before the start time of the allegedly completed session. Patient LW denied receiving physical therapy on September 14, 2008.

5) On or about September 18, 2008, the Respondent completed documentation indicating that she had provided physical therapy to Patient GM from 11:30 a.m. to 12:00 p.m. on September 18, 2008. In contrast, records from the operation room stated that Patient GM had arrived at the Operating Room (OR) Holding at 10:30 a.m. and was not transferred out the operation room until 12:40 p.m. on September 18, 2008.

6) On or about October 16, 2008, the Respondent completed documentation indicating that she had provided physical therapy to Patient HR from 13:30 to 14:10 (1:30 p.m. to 2:10 p.m.), yet when

interviewed later that day, Patient HR denied ever seeing a female physical therapist such as the Respondent.

7) On or about October 16, 2008, the Respondent completed documentation indicating that she had provided physical therapy to Patient RB 14:15 to 15:00 (2:15 p.m. to 3:00 p.m.), yet a registered nurse charted Patient RB at 14:44 (2:44 p.m.) with an elevated heart rate and alerted primary care physician. Patient RB in interview denied receiving physical therapy on October 16, 2008.

8) On or about October 21, 2008, when confronted with documentation regarding the allegations described above, Respondent admitted to her employer in person that what she did was wrong.

9) On or about October 21, 2008, during a course of an investigation, Respondent admitted to her employer in writing that she had documented in the charts of patients that she had provided physical therapy to them when in fact, she had not.

COUNT I

10) Petitioner re-alleges and incorporates paragraph one (1) through nine (9) as if fully set forth herein.

11) Section 486.125(1)(i), Florida Statutes (2008), provides that making or filing a report or record which the licensee knows to be false; constitutes grounds for discipline by the Board of Physical Therapy. Section 486.125(1)(i), Florida Statutes (2008), further states that such reports or records shall include only those which are signed in the capacity as a physical therapist.

12) Respondent violated Section 486.125(1)(i), Florida Statutes (2008), in one or more of the following ways:

- a) by signing or creating records for patient LW as if Respondent had provided physical therapy;
- b) by signing or creating records for patient GM as if Respondent had provided physical therapy;
- c) by signing or creating records for patient HR as if Respondent had provided physical therapy; or
- d) by signing or creating records for patient RB as if Respondent had provided physical therapy;

13) Based upon the foregoing, Respondent violated Section 486.125(1)(i), Florida Statutes (2008), by making or filing a report or record which the licensee knows to be false.

COUNT II

14) Petitioner realleges and incorporates paragraph one (1) through nine (9) as if fully set forth herein.

15) Section 468.125(1)(k), Florida Statutes (2008), provides that violating any provision of Chapter 486 or Chapter 456, Florida Statutes, or any rules pursuant thereto, constitutes grounds for disciplinary action by the Board of Physical Therapy.

16) Section 456.072(1)(m), Florida Statutes (2008), provides that making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession constitutes grounds for discipline by the Board of Physical Therapy.

17) Respondent made deceptive, untrue, or fraudulent representations in or related to the practice of physical therapy in one or more of the following ways:

- a) by signing or creating records for patient LW as if Respondent had provided physical therapy;
- b) by signing or creating records for patient GM as if Respondent had provided physical therapy;

c) by signing or creating records for patient HR as if Respondent had provided physical therapy; or

d) by signing or creating records for patient RB as if Respondent had provided physical therapy;

18) Based upon the foregoing, Respondent violated Section 468.125(1)(k), Florida Statutes (2008), and Section 456.072(1)(m), Florida Statutes (2008), by making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

COUNT III

19) Petitioner realleges and incorporates paragraph one (1) through nine (9) as if fully set forth herein.

20) Section 468.125(1)(k), Florida Statutes (2008), provides that violating any provision of Chapter 486 or Chapter 456, Florida Statutes, or any rules pursuant thereto, constitutes grounds for disciplinary action by the Board of Physical Therapy.

21) Florida Administrative Code Rule 64B17-6.001(2)(e) provides that Physical therapists shall not use or participate in the use of any form of communication containing false, fraudulent, misleading, deceptive,

unfair or sensational statement or claim, nor misrepresentation of services or self, nor engage in other unprofessional conduct, including, but not limited to inaccurately recorded, falsified, or altered patient records.

22) Respondent made use or participated in the use of communication containing false, fraudulent, misleading, deceptive, statement or claim, or misrepresented services or self, or engage in other unprofessional conduct, including, but not limited to inaccurately recorded, falsified, or altered patient records in one or more of the following ways:

- a) by signing or creating records for patient LW as if Respondent had provided physical therapy;
- b) by signing or creating records for patient GM as if Respondent had provided physical therapy;
- c) by signing or creating records for patient HR as if Respondent had provided physical therapy; or
- d) by signing or creating records for patient RB as if Respondent had provided physical therapy;

23) Based upon the foregoing, Respondent violated Section 468.125(1)(k), Florida Statutes (2008), by violating Florida Administrative

Code Rule 64B17-6.001(2)(e), a rule promulgated pursuant to Chapter 486 or Chapter 456, Florida Statutes.

WHEREFORE, Petitioner respectfully requests that the Board of Physical Therapy enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 22ND day of APRIL, 2009.

Ana M. Viamonte Ros, M.D., M.P.H.
State Surgeon General

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: [Signature]
DATE 4/23/09

[Signature]
Joanna Daniels
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
Florida Bar No. 118321
(850) 245-4640, Ext. 8242
(850) 245-4684 Fax

PCP: APRIL 21, 2009

PCP Members: BABB, CANDELA, HUGHES

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF PHYSICAL THERAPY PRACTICE

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2008-23431

TINA MARIE READE, P.T.,

RESPONDENT.

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the above named parties hereby offer this Settlement Agreement to the Board of Physical Therapy Practice as disposition of the Administrative Complaint, attached hereto as **Exhibit A**, in lieu of any other administrative proceedings. The terms herein become effective only if and when a Final Order accepting this Settlement Agreement is issued by the Board and filed. In considering this Settlement Agreement, the Board may review all investigative materials regarding this case. If this Settlement Agreement is rejected, it, and its presentation to the Board, shall not be used against either party.

STIPULATED FACTS

- 1) For all times pertinent herein, Respondent was a licensed physical therapist in the State of Florida, having been issued license number PT 20021. Respondent's address of record is 1643 Astor Farms Place, Sanford, Florida 32771.

J:\PSU\Allied Health\Joanna Daniels\PHYSICAL THERAPY\Reade-Tina-Marie-200823431\Settlement-PRN-ReadeT-Revised30Oct2009.doc

- 2) Respondent was charged by an Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapters 456 and 486, Florida Statutes.
- 3) Respondent admits the factual allegations contained in the Administrative Complaint for the purposes of settlement in these administrative proceedings only.

STIPULATED LAW

- 1) Respondent admits that he/she is subject to the provisions of Chapters 456 and 486, Florida Statutes, and the jurisdiction of the Department of Health and the Board.
- 2) Respondent admits that the stipulated facts, if proven true, constitute a violation of law as alleged in the Administrative Complaint.
- 3) Respondent agrees that the Settlement Agreement in this case is fair, appropriate and acceptable to Respondent.

STIPULATED DISPOSITION

- 1) **APPEARANCE:** Respondent is required to appear before the Board at the meeting of the Board where this Settlement Agreement is considered.
- 2) **LETTER OF CONCERN:** The Final Order Incorporating this Settlement Agreement shall serve as a Letter of Concern from the Board of Physical Therapy Practice to the Respondent.
- 3) **FINE:** The Board of Physical Therapy Practice shall impose an administrative fine of one thousand five hundred dollars (\$1,500) against the license of Respondent. The fine shall be paid by Respondent to the Compliance Officer for the Board

of Physical Therapy Practice, Department of Health, Division of MQA/Compliance Mgmt. Unit, PO Box 6320, Tallahassee, Florida 32314-6320, within 1 (one) year of the filing of a Final Order accepting and incorporating this Settlement Agreement. The Board office does not have the authority to change the terms of payment of any fine imposed by the Board.

- 4) **COSTS:** Respondent shall also pay the administrative costs associated with the investigation and prosecution of this matter. Total costs shall be assessed when the Settlement Agreement is presented to the Board. The costs shall be paid by Respondent to the Compliance Officer for the Board of Physical Therapy Practice, Department of Health, Division of MQA/Compliance Mgmt. Unit, PO Box 6320, Tallahassee, Florida 32314-6320, within 1 (one) year of the filing of a Final Order accepting and incorporating this Settlement Agreement. The Board office does not have the authority to change the terms of payment of any costs imposed by the Board. Any post-Board costs, such as the costs associated with probation, are not included in this agreement.
- 5) **SUSPENSION FROM PRACTICE:** Respondent has obtained an evaluation by Professionals Resource Network (hereinafter "PRN") or the Board approved impaired practitioners' treatment provider. Prior to meeting where this Settlement Agreement is considered, the Respondent shall ensure that the Board receives a fully executed monitoring/advocacy contract between the Respondent PRN or the Board approved impaired practitioners' treatment provider and a written statement

from PRN or the Board approved impaired practitioners' treatment provider stating that it has determined that Respondent is safe to practice. Respondent must ensure that the Board receives this documentation by **Friday, December 18, 2009**, otherwise the Respondent shall be **SUSPENDED** from the date of the filing of a Final Order accepting and incorporating this Settlement Agreement until he provides the Board the executed monitoring/advocacy contract and the written statement as described above. The Respondent shall ensure that these documents are provided to the **Compliance Officer for the Board of Physical Therapy Practice, Department of Health, Division of MQA/Compliance Mgmt. Unit, PO Box 6320, Tallahassee, Florida 32314-6320**, in order to have the suspension lifted.

- 6) **CONTINUING CONDITON:** Compliance with the terms of the monitoring/advocacy contract and all treatment recommendations by PRN or the Board approved impaired practitioners' treatment provider shall be a continuing condition of this Final Order, and a violation shall constitute a violation of this Final Order.
- 7) **SUSPENSION FOR NONCOMPLIANCE:** If at any time Respondent fails to comply with the terms of his or her PRN or the Board approved impaired practitioners' treatment provider contract or Respondent fails to comply with any of PRN or the Board approved impaired practitioners' treatment provider treatment recommendations, upon notification to Respondent to appear at the next Board of

Physical Therapy Practice meeting and be heard, upon a finding by the board that Respondent failed to comply with any of the terms of this agreement the Board may SUSPEND Respondent's license to practice as a physical therapist until Respondent demonstrates to the Board that PRN believes Respondent is safe to practice and will comply with PRN or the Board approved impaired practitioners' treatment provider obligations in the future. Notwithstanding the foregoing,

Respondent shall have the opportunity to provide evidence to the Board to rebut any allegation of non-compliance and the Board shall provide reasonable notice of its concerns in advances of any meeting to allow the Respondent an opportunity to respond.

- 8) **APPEARANCE PRIOR TO TERMINATION OF SUSPENSION:** Before termination of Respondent's suspension from practicing as a physical therapist, he or she shall appear before the Board of Physical Therapy Practice at a regularly scheduled meeting. The Board shall have the opportunity to question and observe Respondent at this time and determine whether the Respondent is able to safely return to the practice of physical therapy in the State of Florida. If the Board determines that Respondent is not safe to practice as a physical therapist in the State of Florida, Respondent's suspension shall continue until such time as Respondent presents to the Board and proves that she is safe to practice physical therapy in the State of Florida. The Board expressly retains the right to impose

restrictions, conditions or obligations (e.g., probation or limitations on place of work) at the time that the Board lifts the suspension of Respondent's license.

- 9) **PROBATION:** Effective on the date of the Board reinstating Respondent's license from suspension, Respondent's license to practice as a physical therapist shall be placed on probation for a period of two (2) years. The purpose of probation is not to prevent Respondent from practicing as a physical therapist. Rather, probation is a supervised educational experience designed by the Board to make Respondent aware of certain obligations to Respondent's patients and the profession and to ensure Respondent's continued compliance with the high standards of the profession through interaction with another physical therapist in the appropriate field of expertise. To this end, during the period of probation, Respondent shall comply with the following obligations and requirements:

- a) **Restrictions During Probation:** During the period of probation, Respondent's license shall be restricted as follows:

- i) **NOTICE TO EMPLOYERS:** Within thirty (30) days of the filing of a Final Order accepting and incorporating this Settlement Agreement, the Respondent shall provide evidence to the Department that he/she has sent to the human resources office of each current employer by certified mail, return receipt requested, a cover letter enclosing a complete copy of the Final Order accepting and incorporating this Settlement Agreement. Within thirty (30) days of the first day working with any new employer while on probation, the

Respondent shall provide evidence to the Department that he/she has sent to all current employers by certified mail, return receipt requested, a cover letter enclosing a complete copy of the Final Order accepting and incorporating this Settlement Agreement. The Respondent shall provide a copy of the cover letter and certified mail receipt number for each employer to the ~~Compliance Officer for the Board of Physical Therapy Practice,~~
**Department of Health, Division of MQA/Compliance Mgmt. Unit, PO
Box 6320, Tallahassee, Florida 32314-6320.**

- ii) NO HOME HEALTHCARE: Respondent shall be restricted from practicing as a physical therapist in any home healthcare setting.
- iii) REQUIRED SUPERVISION: Respondent shall only practice as a physical therapist under the indirect supervision of a SUPERVISOR, a physical therapist or other appropriate licensee who is approved by the Board.
- iv) QUALIFICATIONS OF SUPERVISOR: The supervisor must be a licensee under Chapter 486, Florida Statutes, or the appropriate Chapter of the licensee approved by the Board, in good standing and without restriction or limitation on his or her license. In addition, the Board may reject any proposed supervisor on the basis that he or she has previously been subject to any disciplinary action against his or her physical therapy license or other healthcare professional license in this or any other jurisdiction, is currently under investigation, or is the subject of a pending disciplinary action under

any healthcare professional license. The supervisor must be actively engaged in the same area unless otherwise provided by the Board. The Board may also reject any proposed supervisor for good cause shown.

v) MECHANISM FOR APPROVAL OF MONITOR/SUPERVISOR:

(1) **Temporary Approval:** The Board confers authority on the Chairperson of the Board to temporarily approve Respondent's supervising physical therapist. To obtain this temporary approval, Respondent shall submit to the Chairperson of the Board the name and curriculum vitae of the proposed supervising physical therapist at the time this agreement is considered by the Board. Once a Final Order adopting the Agreement is filed, Respondent shall not practice as a physical therapist without an approved supervisor. Temporary approval shall only remain in effect until the next meeting of the Board.

(2) **Formal Approval:** Respondent shall have the supervising physical therapist with Respondent at Respondent's first probation appearance before the Board. Prior to the consideration of the supervisor by the Board, Respondent shall provide to the supervisor a copy of the Administrative Complaint and Final Order in this case. Respondent shall submit a current curriculum vitae and a description of current practice from the proposed supervising physical therapist to the Board office no later than fourteen (14) days before Respondent's first scheduled

probation appearance. Respondent's supervising physical therapist shall also appear before the Board at such other times as directed by the Board. It shall be Respondent's responsibility to ensure the appearance of the supervisor as directed. If the supervisor fails to appear as requested or directed by the board it shall constitute a violation of the terms of this Settlement Agreement and shall subject Respondent to disciplinary action.

If the approved supervisor fails to appear as requested or directed by the Board, Respondent shall immediately cease practicing as a physical therapist until such time as the approved supervisor or alternate supervisor appears before the Board.

- (3) **Change In Supervisor:** In the event that Respondent's supervisor is unable or unwilling to fulfill the responsibilities of a supervisor as described above, Respondent shall immediately advise the Board of this fact. Respondent shall immediately submit to the Chairperson of the Board the name of a temporary supervisor for consideration. Respondent shall not practice pending approval of this temporary supervisor by the Chairperson of the Board. Furthermore, Respondent shall make arrangements with his or her temporary supervisor to appear before the Board at its next regularly scheduled meeting for consideration of the supervisor by the Board. Respondent shall only practice under the auspices of the temporary supervisor (approved by the Chairperson) until

the next regularly scheduled meeting of the Board at which the issue of the Board's approval of Respondent's new supervisor shall be addressed.

vi) RESPONSIBILITIES OF THE SUPERVISOR: The supervisor shall:

- (1) Quarterly, review at least five (5) of Respondent's active patient/treatment records and billing records for the purpose of ascertaining that Respondent is meeting the minimum standards of physical therapy practice.
- (2) Submit reports on a quarterly, in affidavit form, which shall include:
 - (a) A brief statement of why Respondent is on probation;
 - (b) A description of Respondent's practice (type and composition);
 - (c) A statement addressing Respondent's compliance with the terms of probation;
 - (d) A brief description of the supervisor's relationship with Respondent;
 - (e) A statement advising the Board of any problems which have arisen; and
 - (f) A summary of the number of records reviewed, and the overall quality of the records reviewed, and the dates Respondent contacted the monitor;
- (3) Report immediately to the Board any violations by Respondent of Chapters 456 or 486, Florida Statutes, and the rules promulgated thereto.
- (4) Respondent's supervisor shall appear before the Board at the first meeting following commencement of the probation, and at such other times as directed by the Board. It shall be Respondent's responsibility to ensure the appearance of Respondent's supervisor to appear as requested or

directed. If the approved supervisor fails to appear as requested or directed by the Board, Respondent shall immediately cease practicing as a physical therapist until such time as the approved supervisor or alternate supervisor appears before the Board. If the supervisor fails to appear as requested or directed by the board it shall constitute a violation of the terms of this Settlement Agreement and shall subject Respondent to disciplinary action.

vii) REPORTS FROM RESPONDENT: - Respondent shall submit quarterly reports, in affidavit form, the contents of which may be further specified by the Board, but which shall include:

- (1) A brief statement of why Respondent is on probation;
- (2) A description of practice location;
- (3) A description of current practice (type and composition);
- (4) A brief statement of compliance with probationary terms;
- (5) A description of the relationship with the supervising physical therapist;
- (6) A statement advising the Board of any problems which have arisen; and
- (7) A statement addressing compliance with any restrictions or requirements imposed.

b) Continuity Of Practice:

- i) Tolling Provisions: In the event Respondent leaves the State of Florida for a period of thirty (30) days or more or otherwise does not engage in the active practice as a physical therapist in the State of Florida, then certain provisions of Respondent's probation (and only those provisions of the probation) shall

be tolled as enumerated below and shall remain in a tolled status until Respondent returns to active practice in the State of Florida:

- (1) The time period of probation shall be tolled;
- (2) The provisions regarding supervision whether direct or indirect by another physical therapist (or licensee under the appropriate Chapter of the licensee approved by the Board), and required reports from the supervisor shall be tolled;
- (3) The provisions regarding preparation of investigative reports detailing compliance with this Settlement Agreement shall be tolled; and
- (4) Active Practice: In the event that Respondent leaves the active practice as a physical therapist for a period of one (1) year or more, the Board may require Respondent to appear before the Board and demonstrate his or her ability to practice as a physical therapist with skill and safety to patients prior to resuming the practice as a physical therapist in this State.

- c) Early Termination or Modification of Probation: After serving twelve (12) months of his or her probation, Respondent has the opportunity to petition the Board for early termination of his or her probation or modify the probation to reduce or eliminate requirements of review of active patient/treatment records and billing records. At the time Respondent petitions the Board for early termination or modification of his or her probation, the Board will decide whether to grant or reject the petition.

- 10) **LAWS & EXAMINATION:** Within sixty (60) days of the filing of the Final Order in this matter, Respondent shall register to take the Florida Physical Therapy Laws and Rules examination, and shall successfully complete and pass the examination within twelve (12) months of the date of the filing of the Final Order adopting this Settlement Agreement. The Respondent shall submit proof of passage of the ~~Florida Physical Therapy Laws & Rules examination to the Compliance Officer~~ for the Board of Physical Therapy Practice, Department of Health, Division of MQA/Compliance Mgmt. Unit, PO Box 6320, Tallahassee, Florida 32314-6320.

STANDARD PROVISIONS

- 11) **NO FORCE OR EFFECT UNTIL FINAL ORDER:** It is expressly understood that this Settlement Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Settlement Agreement.
- 12) **ADDRESSES:** Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses. Within (10) days of any change of said addresses, the Respondent shall also notify separately the Compliance Officer for the Board of Physical Therapy Practice, Department of Health, Division of

MQA/Compliance Mgmt. Unit, PO Box 6320, Tallahassee, Florida 32314-6320.

- 13) **FUTURE CONDUCT:** In the future, Respondent shall not violate Chapters 456, or 486, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice physical therapy. ~~Prior to signing this agreement, the Respondent shall~~ read Chapters 456, 486, Florida Statutes, and the Rules of the Board of Physical Therapy Practice, at Chapter 64B17, Florida Administrative Code.
- 14) **VIOLATION OF TERMS CONSIDERED:** It is expressly understood that a violation of the terms of this Settlement Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 486, Florida Statutes.
- 15) **PURPOSE OF AGREEMENT:** Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Settlement Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Settlement Agreement. Respondent agrees to support this Settlement Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Settlement Agreement not be accepted by the Board, it is agreed that presentation to and

consideration of this Settlement Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

16) **NO PRECLUSION OF ADDITIONAL PROCEEDINGS:** Respondent and the Department fully understand that this Settlement Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as **Exhibit A**.

17) **WAIVER OF ATTORNEY'S FEES AND COSTS:** Upon the Board's adoption of this Settlement Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

TEXT CONTINUED ON NEXT PAGE

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Send 1 page

18) **WAIVER OF FURTHER PROCEDURAL STEPS:** Upon the Board's adoption of this Settlement Agreement, the Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Settlement Agreement and the Final Order of the Board incorporating said Settlement Agreement.

SIGNED this 18 day of November, 2009.

CONFIDENTIAL

Tina Marie Reade, PT
TINA MARIE READE, P.T.

Before me on this 18th day of November, 2009, personally appeared Tina M. Reade, whose identity is known to me by FLDL#R (type of identification) and who acknowledges that his or her signature appears above and his or her initials appear in the bottom right-hand corner of each page of this document.



Notary Public State of Florida
Estel L. Orseno
My Commission DD492529
Expires 01/23/2010

Estel L. Orseno

NOTARY PUBLIC

My Commission Expires:

APPROVED this 18th day of November, 2009

18th November, 2009

Ana M. Viamonte Ros

Ana M. Viamonte Ros M.D., M.P.H.
State Surgeon General

Counsel for Petitioner:
Joanna Daniels, Assistant General Counsel

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JMR

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Exhibit C

Certification of Costs - Declaration of Jean-Pierre Francillette

1 KAMALA D. HARRIS
Attorney General of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
3 JEAN-PIERRE FRANCILLETTE
Deputy Attorney General
4 State Bar No. 236017
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5330
Facsimile: (916) 327-2247
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **PHYSICAL THERAPY BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1D 2010 68385

13 **TINA MARIE HOWARD, P.T.**
10361 S McClung
Homosassa, FL 34448
14 Physical Therapy License No. PT 28747

**CERTIFICATION OF
COSTS - DECLARATION OF JEAN-
PIERRE FRANCILLETTE**

[Business and Professions Code section 125.3]

15
16 Respondent.
17
18

19 I, JEAN-PIERRE FRANCILLETTE, hereby declare and certify as follows:

20 1. I am a Deputy Attorney General employed by the California Department of Justice
21 (DOJ), Office of the Attorney General (Office). I am assigned to the Health Quality Enforcement
22 Section in the Civil Division of the Office. I have been designated as the representative to certify
23 the costs of prosecution by DOJ and incurred by the Physical Therapy Board of California in this
24 case. I make this certification in my official capacity and as an officer of the court and as a public
25 employee pursuant to Evidence Code section 664, except for where based on information and
26 belief, I have personal knowledge of the items stated herein. If called to testify, I could and
27 would competently testify thereto.
28

1 2. I represent the Complainant, Steven K. Hartzell, Executive Officer of the Physical
2 Therapy Board of California, in this action. I was assigned to handle this case on or around June
3 14, 2010.

4 3. Our Office's computerized case management system reflects that I am the only DOJ
5 attorney to have performed tasks related to this matter.

6 4. I am familiar with the time recording and billing practices of DOJ and the procedure
7 for charging the client agency for the reasonable and necessary work performed on a particular
8 case. It is the duty of the time keeping employees to keep track of the time spent and to report
9 that time in DOJ's computerized case management system at or near the time of the tasks
10 performed.

11 5. On April 28, 2011, I requested a billing summary for this case from the Accounting
12 Department of the DOJ. In response, on April 29, 2011, I received a document entitled "Matter
13 Time Activity by Professional Type." I hereby certify that the Matter Time Activity by
14 Professional Type, attached hereto as Exhibit 1, and herein incorporated by reference, is a true
15 and correct copy of the billing summary for this matter that I received from the Accounting
16 Department. The summary includes the billing costs incurred by myself, as no other
17 professionals of the DOJ worked on the matter; and sets forth the tasks undertaken, the amount of
18 time billed for the activity, and the billing rate by professional type. The billing summary is
19 comprehensive of the charges by the Office to the Physical Therapy Board of California through
20 April 29, 2011. It does not include billing for tasks performed after April 29, 2011, up to the date
21 of hearing; including the estimated costs that will be charged to the Physical Therapy Board of
22 California as more fully discussed in paragraph 7 below.

23 6. Based upon the time reported through April 29, 2011, as set forth in Exhibit 1, DOJ
24 has billed the Physical Therapy Board of California \$2,932.50 for the time spent working on the
25 above entitled case.

26 7. In addition to the time set forth above, it is my good faith estimate that the following
27 additional hours were or will be incurred and billed to the Physical Therapy Board of California
28 for the further preparation of the case up to the commencement of the hearing.

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<u>Employee/ Position</u>	<u>Fiscal Year</u>	<u>No. of Hours</u>	<u>Hourly Rate</u>	<u>Total Charges</u>
Jean-Pierre Francillette, Deputy Attorney General	2011	5.00	170	850.00
				Subtotal: \$850.00

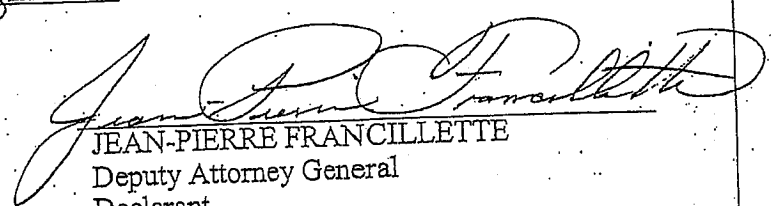
TOTAL COSTS BILLED: \$3,782.50

8. The total costs to be bill in this matter are: \$3,782.50

9. To the best of my knowledge the items of cost set forth in this certification are correct and were necessarily incurred in this case.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 29, 2011, in the City of Sacramento, California.


JEAN-PIERRE FRANCILLETTE
Deputy Attorney General
Declarant

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EXHIBIT 1

Matter Time Activity by Professional Type

KAMALA D. HARRIS
Attorney General



State of California
DEPARTMENT OF JUSTICE
1300 I STREET, SACRAMENTO, CA 95814
Billing Inquiries: (916) 324-5090

As of Apr 29, 2011

Matter Time Activity By Professional Type

Date Opened: 06/14/2010

Matter ID: SA2010101570

Description: Howard, Tina, PT

Professional Type: Attorney

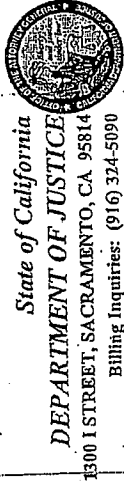
Fiscal Year: 2010

Professional: Jean-Pierre Francillette

Trans	Date	Section	Client	Task	Hours Worked	Rate	Amount	Adj.	Statement Date
106773018	7/2/10	CV-HQE:160	03575	Client Communication	0.25	\$170.00	\$42.50		7/31/10
106773019	7/2/10	CV-HQE:160	03575	Pleading Preparation	1.00	\$170.00	\$170.00		7/31/10
106775978	7/6/10	CV-HQE:160	03575	Research	0.50	\$170.00	\$85.00		7/31/10
106775980	7/6/10	CV-HQE:160	03575	Pleading Preparation	1.25	\$170.00	\$212.50		7/31/10
106775998	7/7/10	CV-HQE:160	03575	Pleading Preparation	1.50	\$170.00	\$255.00		7/31/10
106776029	7/8/10	CV-HQE:160	03575	Pleading Preparation	1.50	\$170.00	\$255.00		7/31/10
106781470	7/16/10	CV-HQE:160	03575	Pleading Preparation	0.25	\$170.00	\$42.50		7/31/10
106787445	7/26/10	CV-HQE:160	03575	Pleading Preparation	0.25	\$170.00	\$42.50		7/31/10
106788590	7/27/10	CV-HQE:160	03575	Pleading Preparation	0.50	\$170.00	\$85.00		7/31/10
106788592	7/28/10	CV-HQE:160	03575	Pleading Preparation	0.25	\$170.00	\$42.50		7/31/10
106788827	7/28/10	CV-HQE:160	03575	Case Management	0.25	\$170.00	\$42.50		7/31/10
106790439	7/30/10	CV-HQE:160	03575	Pleading Preparation	0.50	\$170.00	\$85.00		7/31/10
106790440	7/30/10	CV-HQE:160	03575	Case Management	0.25	\$170.00	\$42.50		7/31/10
106790445	7/29/10	CV-HQE:160	03575	Research	0.25	\$170.00	\$42.50		7/31/10
106790448	7/29/10	CV-HQE:160	03575	Case Management	0.25	\$170.00	\$42.50		7/31/10
106790450	7/30/10	CV-HQE:160	03575	Case Management	0.25	\$170.00	\$42.50		7/31/10
106790614	7/30/10	CV-HQE:160	03575	Pleading Preparation	0.25	\$170.00	\$42.50		7/31/10
106790684	7/30/10	CV-HQE:160	03575	Analysis/Strategy	0.50	\$170.00	\$85.00		7/31/10
106791460	7/30/10	CV-HQE:160	03575	Client Communication	0.25	\$170.00	\$42.50		8/31/10
106798442	8/10/10	CV-HQE:160	03575	Client Communication	0.25	\$170.00	\$42.50		8/31/10
106798443	8/11/10	CV-HQE:160	03575	Client Communication	0.25	\$170.00	\$42.50		10/31/10
106844039	10/5/10	CV-HQE:160	03575	Client Communication	0.25	\$170.00	\$42.50		10/31/10
106844041	10/5/10	CV-HQE:160	03575	Client Communication	0.25	\$170.00	\$42.50		1/31/11
106941209	1/31/11	CV-HQE:160	03575	Client Communication	0.25	\$170.00	\$42.50		1/31/11
106941210	1/31/11	CV-HQE:160	03575	Investigation	0.25	\$170.00	\$42.50		1/31/11

(AMM001)

KAMALA D. HARRIS
Attorney General



As of Apr 29, 2011

Matter Time Activity By Professional Type

Trans #	Date	Section	Client	Task	Hours Worked	Rate	Amount	Adj	Statement Date
106941215	1/31/11	CV-HQE:160	03575	Case Management	0.25	\$170.00	\$42.50		1/31/11
Jean-Pierre Francillette Totals:					11.75		\$1,997.50		
2010 Totals:					11.75		\$1,997.50		
Fiscal Year: 2009									
Professional: Jean-Pierre Francillette									
106770720	6/28/10	CV-HQE:160	03575	Case Evaluation/Assessment	0.50	\$170.00	\$85.00		6/30/10
106770817	6/29/10	CV-HQE:160	03575	Document Analysis	1.50	\$170.00	\$255.00		6/30/10
106770841	6/30/10	CV-HQE:160	03575	Research	1.00	\$170.00	\$170.00		6/30/10
106770846	6/30/10	CV-HQE:160	03575	Pleading Preparation	1.50	\$170.00	\$255.00		6/30/10
106770848	6/29/10	CV-HQE:160	03575	Document Analysis	0.75	\$170.00	\$127.50		6/30/10
106770860	6/30/10	CV-HQE:160	03575	Research	0.25	\$170.00	\$42.50		6/30/10
Jean-Pierre Francillette Totals:					5.50		\$935.00		
2009 Totals:					5.50		\$935.00		
Attorney Totals:					17.25		\$2,932.50		
SA2010101570 Totals:					17.25		\$2,932.50		